

PRETRIAL SERVICES OFFICERS

The Pretrial Services Officer's Role

In the 94 federal judicial districts nationwide, U.S. pretrial services officers play an integral role in the administration of justice. Pretrial services officers balance the defendant's right to pretrial release with the court's concern that the defendant appear in court as required and not endanger the public. They provide to the court two important services: *investigation* and *supervision*.

U.S. pretrial services officers are situated at a crucial place in the federal criminal justice process—the very start. Officers often are the first court representatives defendants encounter after their arrest. In general, officers' mission is to investigate defendants charged with a federal crime, recommend in a report to the court whether to release or detain the defendants, and supervise the defendants who are released to the community while they await their day in court.

At the core of the day-to-day work of officers is the hallowed principle of criminal law that the defendant is presumed innocent until proven guilty. Officers must balance this presumption with the reality that some persons—if not detained before their trial—are likely to flee or to pose a danger to the community through criminal activity or to certain persons such as victims or witnesses.

Officers' responsibilities require them to work not only with federal judges, magistrate judges, and other court professionals, but with U.S. attorneys, defense attorneys, state and local law enforcement agents, and treatment providers. Officers deliver services that benefit the court, the community, and the defendant. Their duties are described below.

Investigation

The officer conducts a pretrial services investigation, gathering and verifying important information about the defendant and the defendant's suitability for pretrial release. The investigation begins when the officer is first informed that a defendant has been arrested. The arresting or case agent calls the pretrial services

office and, ideally, provides helpful information about the defendant and the circumstances surrounding the arrest.

As part of the investigation, the officer interviews the defendant to find out about the defendant's activities, living situation, and employment or source of support. Before the interview, the officer completes a criminal history check and, if possible, speaks to the assistant U.S. attorney about the charges and the government's position as to whether to release or detain the defendant.

The interview may take place in the U.S. marshal's holding cell, the arresting law enforcement agency's office, the local jail, or the pretrial services office. During the interview, the officer talks to the defendant in private if possible, remains objective during the interaction, and explains that the information will be used to decide whether the defendant will be released or detained. The officer does not discuss the alleged offense or the defendant's guilt or innocence and does not give the defendant legal advice or recommend an attorney.

The officer must verify the information received from the defendant. What the officer learns from collateral sources—from other persons, from documents, and from on-line research—may confirm what the defendant said, contradict it, or provide something more. The officer's research may include contacting the defendant's family and associates to confirm background information, employers to verify employment, law enforcement agencies to obtain a criminal history, and financial institutions to obtain bank or credit card statements.

Conducting the investigation in time for the defendant's initial appearance in court can be quite a challenge. Sometimes the officer must wait for the arresting agents to make the defendant available or for the U.S. marshals to finish processing the defendant. Sometimes the defense counsel is interviewing the defendant or tells the defendant not to answer the officer's questions. Sometimes the officer must wait for an interpreter or for an interview room. Sometimes verifying information is difficult

because the defendant gives false information or a false identity or because persons able to verify information are not available.

Report Preparation

Based on the investigation findings, the officer prepares a report that helps the court make an informed release or detention decision. The report addresses two basic questions: Is the defendant likely to stay out of trouble and come back to court? If not, what conditions should the court impose to increase the likelihood? The officer considers both *danger* and *nonappearance* factors before making a recommendation to the court to release or detain the defendant. For example, the offense with which the defendant is charged and the defendant's substance abuse history may present both danger and nonappearance considerations. Factors such as prior arrests and convictions or a history of violence raise danger concerns. Factors such as the defendant's immigration status and ties to family and community may influence nonappearance.

The officer's mandate is to recommend to the court the *least restrictive* conditions that will reasonably assure that the defendant appears in court and poses no danger. If no risk factors are evident, the officer recommends release on personal recognizance. If risk factors exist, the officer recommends either detention or release with conditions. Release conditions are tailored to the individual defendant, but always include the universal condition that the defendant not commit a federal, state, or local crime during the period of release. The officer may recommend that the court set release conditions to accomplish goals, including to prohibit possession of weapons, contact with victims, or use of alcohol or drugs; to restrict the defendant's freedom of movement or with whom the defendant associates; and to require the defendant to seek or maintain a job, obtain education or training, or surrender a passport. If the defendant is likely to fail to appear, the officer may recommend a financial bond, which the defendant (or his or her family) forfeits if the defendant does not return to court as directed.

Supervision

The officer supervises offenders in the community to make sure they comply with court-ordered release conditions. Supervision continues either until defendants are released to the community, begin to serve their sentence, are acquitted, or the charges are dismissed.

When the officer receives a case for supervision, the officer reviews the information about the defendant, assessing any potential risk the defendant presents and any supervision issues that may affect the defendant's ability to comply with the release conditions. The officer selects appropriate supervision strategies and develops a supervision plan, which the officer modifies if the defendant's circumstances change.

Generally, officers' supervision responsibilities are to: 1) monitor defendants' compliance with their release conditions; 2) manage risk; 3) provide necessary services as ordered by the court, such as drug treatment; and 4) inform the court and the U.S. attorney if the defendant violates the conditions. Routine supervision tasks include monitoring the defendant through personal contacts and phone calls with the defendant and others, including family members, employers, and treatment providers; meeting with the defendant in the pretrial services office and at the defendant's home and job; and helping the defendant find employment and medical, legal, or social services. Some officers—for instance, drug and alcohol treatment specialists or home confinement specialists—perform supervision duties that require special skills or expertise.

If the release conditions become unnecessary, the officer asks the court to remove them. If the defendant violates the conditions, the officer notifies the court and the U.S. attorney. Depending on the circumstances, the officer may recommend that the court conduct a hearing to decide whether to modify the conditions, revoke the defendant's bail, issue a bench warrant, or order the defendant detained.

Pretrial Diversion

Pretrial diversion is an alternative to prosecution that diverts the defendant from prosecution to a program of supervision administered by the pretrial services officer. The U.S. attorney identifies candidates for diversion—persons who have not adopted a criminal lifestyle and who are likely to complete the program successfully. The pretrial services officer investigates the individual, recommends for or against placement, and recommends length of supervision and special conditions. Diversion is voluntary; the person may opt to stand trial instead. If the person is placed in the program, he or she is supervised by a pretrial services officer. If the person successfully completes supervision, the government declines prosecution and makes no record of the arrest.